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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,481	04/06/2007	Tsutomu Ikeda	00684.517380.	3895
5514 7590 10/07/2009 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				
EXAMINER				
CHOW, YUK				
ART UNIT		PAPER NUMBER		
2629				
MAIL DATE		DELIVERY MODE		
10/07/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/581,481

**Applicant(s)**

IKEDA ET AL.

**Examiner**

YUK CHOW

**Art Unit**

2629

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/88)  
Paper No(s)/Mail Date 05/31/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claim 5 objected to because of the following informalities: a typographical error on page 27, claim 5, line 11: "disposed at at least...". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kishi (US 2003/0231162).

As to **claim 1**, Kishi discloses a particle movement-type display apparatus, comprising:

a pixel portion (Fig. 4B(21)), a peripheral area (Fig. 4B(31)) around the pixel portion, and particles, wherein at least a part of the peripheral area around the pixel portion is provided with a recess portion capable of accommodating a part of the particles therein (see Fig. 4B and [0064]-[0065]).

As to **claim 2**, Kishi discloses an apparatus according to claim 1, wherein the recess portion has a depth which is not less than a diameter of the particles (Fig. 4B shows that more than one particle fits into the recess portion).

As to **claim 3**, Kishi discloses an apparatus according to claim 1, wherein the peripheral area comprises a periphery of a display portion comprising a plurality of pixel portions and a partition wall for partitioning the pixel portions (See Fig. 14A, B and C).

As to **claim 4**, Kishi discloses an apparatus according to claim 1, wherein the peripheral area comprises a partition wall for partitioning the plurality of pixel portions (See Fig. 14A, B and C).

As to **claim 5**, Kishi discloses a particle movement-type display apparatus, comprising:

a first substrate and a second substrate, a partition wall disposed between the first and second substrates (Fig. 4B, top and bottom), particles disposed at a pixel portion defined by the first substrate, the second substrate and the partition wall (see Fig. 14A, B, C), and an electrode for moving the particles, wherein the apparatus further comprises a structure, which has a projection portion having a height substantially equal to a height of the partition wall and a recess portion in which a part of the particles are capable of being accommodated, disposed at at least a part of a peripheral area around a display portion comprising the plurality of pixel portions (See Fig. 4B and [0064]-[0065]).

As to **claim 6**, Kishi discloses an apparatus according to claim 5, wherein the projection portion has a mesh shape, a linear or curved line shape, a dot shape, a shape closely surrounding the display portion, a double cross shape, a cross shape, a honeycomb shape, or a combination of these shapes (It would have been a design choice to have different shapes, and see [0066]).

As to **claim 7**, Kishi discloses an apparatus according to claim 5, wherein the projection portion has a line width, which is not more than ten times a diameter of the particles, at an upper surface thereof (see Fig. 4B, projection portion is less than few particles in length).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YUK CHOW whose telephone number is (571)270-1544. The examiner can normally be reached on 8-6 M-TH E.T..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amare Mengistu can be reached on 571 272-7674. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 2629

/Amare Mengistu/  
Supervisory Patent Examiner, Art Unit 2629